1484.

# SUPREME COURT OF THE UNITED STATES,

## No. 154.

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WILLIAM A. BOOTH,

vs.

FERDINAND CLARK.

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ON APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA, HOLDEN IN AND FOR WASHINGTON COUNTY.

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INDEX.


| | Original. | Print. |
|---|---|---|
| Style of the court | 1 | 1 |
| Bill of complaint | 2 | 1 |
| Injunction ordered | 11 | 5 |
| Exhibit A in bill, Camara's judgment vs. F. Clark | 12 | 5 |
| Fi. fa. in same | 23 | 10 |
| Exhibit B in bill, appointment of receiver | 27 | 11 |
| Injunction bond | 30 | 13 |
| Injunction and subpœna issued | 34 | 15 |
| Answer of F. Clark to Booth | 35 | 15 |
| Motion to dissolve injunction | 48 | 20 |
| Chancery record in New York of Juan de la Camara vs. F. Clark | 48 | 20 |
| General replication | 90 | 40 |
| Set for hearing | 90 | 40 |
| Agreement of counsel | 91 | 41 |
| Decree | 93 | 42 |
| Appeal prayed and granted | 93 | 42 |
| Agreement of counsel | 94 | 42 |
| Appeal bond | 94 | 43 |
| Agreement of counsel: evidence in Hackett vs. Clark | 97 | 44 |
| Clerk's certificate | 98 | 45 |


Gideon, printer.

DISTRICT OF COLUMBIA, *to wit:*

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the fourth Monday of March, being the twenty-eighth day of the same month, in the year of our Lord one thousand eight hundred and fifty-three, and of the Independence of the United States the seventy-seventh.

Present, William Cranch, chief judge; the Hon. James S. Morsell, the Hon. James Dunlop, assistant judges.

Richard Wallach, esquire, marshal; John A. Smith, clerk.

In the record of proceedings of said court, among others are the following, to wit:

WILLIAM A. BOOTH
vs.
FERDINAND CLARK.

Be it remembered, that heretofore, to wit, on the 10th day of March, in the year of our Lord 1851, a certain William A. Booth, by Joseph H. Bradley, his solicitor, filed in court here against the said Ferdinand Clark, the following bill of complaint and exhibits, to wit:

CIRCUIT COURT,
*District of Columbia.*

To the honorable the judges of the circuit court of the District of Columbia:

Humbly complaining, showeth unto your honors, your orator, William A. Booth, of the city of New York, merchant:

That heretofore, to wit, on the fifth day of March, in the year one thousand eight hundred and forty-two, one Juan de la Camara, at the city of Havana, in the island of Cuba, recovered a judgment at law in the supreme court of judicature of the State of New York, against Ferdinand Clark, a defendant, hereinafter more particularly named, formerly of the said city of Havana, but then residing in the city of New York, in an action of trespass on the case upon promises (commenced by the service of process upon the said Ferdinand Clark personally) for the sum of four thousand six hundred and sixty-eight dollars and forty-nine cents damages and costs, as by the record and

docket of the said judgment now remaining in the office of the clerk of the said court, in the city of New York, or by a duly authenticated copy thereof, to which, for greater certainty, your orator prays leave to refer, may more fully and at large appear, and as likewise appears by the exhibit hereto annexed, and marked A, to which your orator also prays leave to refer, (copied at p. 12.)

That a writ of execution, commonly called a fieri facias ad satisfaciendum, against the property of the said defendant, Ferdinand Clark, was, on the fifth day of April, of the year aforesaid, duly and regularly issued on the said judgment, directed and delivered to the sheriff of the proper county, that is to say, the city and county of New York, in which the said Ferdinand Clerk then resided, and was on the eighth day of June, in the year aforesaid, returned by the said sheriff wholly unsatisfied, as by the said writ and the said return endorsed thereon by the said sheriff, filed in the office of the clerk of said court, in the city of New York aforesaid, will more fully appear, and to which, or to a duly authenticated copy thereof, your orator prays leave to refer.

And your orator further shows unto your honors, that no part of the said judgment has ever been paid or satisfied, and that after the said execution against the property of the said Ferdinand Clark had been so returned wholly unsatisfied, the said Juan de la Camara, agreeably to law and to the practice in like cases, filed a bill in equity, usually denominated a judgment creditor's bill, in the court of chancery of the State of New York, before the vice chanceller of the of the first circuit, on the thirteenth day of June, in the said year 1842, against the said Ferdinand Clark, to compel the discovery of any property or thing in action belonging to him, and of any property, money, or thing in action due to him or held in trust for him, and to prevent the transfer of any such property, money, or thing in action, or the payment or delivery thereof to him, and to obtain satisfaction of the amount of the said judgment out of any personal property, money, or things in action belonging to the said Ferdinand Clark, or held in trust for him: That by the laws of the State of New York, the filing of such a bill operated as an attachment of all such personal property, money, or things in action belonging to the judgment debtor, and the judgment creditor thereby acquired a lien thereon and a right to be paid out of the same, in perference to all creditors other than such (if any) as had previously filed similar bills in chancery against the judgment debtors: That upon the filing of the said bill, the said court of chancery made an order for the issuing of an injunction, restraining the said Ferdinand Clark from collecting, receiving, selling, transferring, assigning, dilivering, or in any way or manner using, controlling, or interfering with, or disposing of, any debts or demands due to him, or any things in action, property, or effects belonging to him.

That such writ of injunction was accordingly issued, and was per-

sonally served upon the said Ferdinand Clark on the twenty-third day of June, in the said year one thousand eight hundred and forty-two, and has ever since continued to be, and still remains, in full force and effect: that on the same twenty-third day of June, the said Ferdinand Clark was likewise personally served with process of subpœna to appear and answer the said bill, and with a copy thereof, and with a notice that an application would be made, at a time and place therein specified, to the said court of chancery, to appoint a receiver of the money, property, things in action, and effects of the said Ferdinand Clark.

And your orator further shows, that such application was accordingly made, and such proceedings were thereupon had in the said court of chancery; that your orator, on or about the third day of August, in the said year 1842, was duly appointed by the said court receiver of the money, property, things in action, and effects, of the said Ferdinand Clark, with the usual powers and authority of receivers in like cases, and gave the necessary and usual security for the faithful discharge of his duties as such receiver, whereby your orator then became, and ever since has continued to be, and still is, such receiver as aforesaid, as by the said bill and other papers and proceedings in the said suit on file in the office of the clerk of the city and county of New York, who has, by law, the custody thereof, will more fully appear, and to which, or a duly authenticated copy of the same, your orator prays leave to refer, and as likewise appears by an authenticated copy of the appointment of your orator as such receiver hereunto annexed and marked B, to which he also craves leave to refer. (The said bill, copied at p. 48, and exh't B, p. 26.)

And your orator further shows unto your honors, that no part of the property, things in action, and effects of the said Ferdinand Clark, whereof your orator so became, and yet is, receiver as aforesaid, has ever came to his hands, possession, or control: that the same consisted principally, if not wholly, of a claim to a very large amount, which, at the time of your orator's appointment, the said Ferdinand Clark had against the republic of Mexico, and the existence of which was discovered by the said proceedings in chancery.

That the board of commissioners appointed under the act of Congress, approved March 3, 1849, entitled "An act to carry into effect certain stipulations of the treaty between the United States of America and the republic of Mexico, of the second day of February, one thousand eight hundred and forty-eight," has recently, to wit, on or about the sixteenth day of April last past, made an award upon the said claim, and in favor of the said Ferdinand Clark, for the sum of eighty-six thousand seven hundred and eighty-six dollars and twenty-nine cents, or thereabouts, which sum is now in the hands of the honorable Thomas Corwin, Secretary of the Treasury of the United States, ready to be paid to whomsoever may be legally entitled to receive the same.

That your orator, as such receiver as aforesaid, claims the amount so awarded, and has notified the said Secretary of the Treasury of his intention to contest the payment of the same, and has filed with the district attorney of the United States for the District of Columbia, a bond, with good and sufficient security, for the payment of the costs and damages arising from your orator's claim.

But now so it is, may it please your honors, that the said Ferdinand Clark, or persons claiming by, from, through, or under him, wrongfully claim the said sum so awarded, or considerable portions of the same; and the said Secretary of the Treasury, in consequence thereof, withholds the amount so awarded, and alleges that he cannot safely pay over the same to your orator until the decision of a court of the United States in his favor, because of the claims that have been made thereto by other persons, as above mentioned.

To the end, therefore, that the said Ferdinand Clark may be made defendant hereto, and may full, true, and perfect answer make to all and singular the matters and things hereinbefore stated, as fully as though they were herein again repeated, and he interrogated thereto, and that the said sum of money may be decreed to be paid to your orator, to be by him distributed as receiver as aforesaid, and that the said Ferdinand Clark, his agents and attorneys, and every person and persons claiming the same by, from, through, or under him, shall, by the injunction of this court, be restrained from receiving, and the said Secretary of the Treasury be restrained from paying, the said sum of eighty-six thousand seven hundred and eighty-six dollars and twenty-nine cents until the further order of this court, and for such other and further relief as to your honors the premises considered may seem meet.

May it please your honors to grant the United States writs of subpœna and injunction; and inasmuch as said Ferdinand Clark resides out of the jurisdiction of this court, may it please your honors to grant the usual order of publication; and your orator, as in duty bound, will ever pray, &c.

JOS. H. BRADLEY,
*Solicitor for Compl't.*

*Affidavit.*

DISTRICT OF COLUMBIA, *ss.*

Andrew S. Garr, of the city of New York, counsellor at law, being duly affirmed, saith: That he is the agent of the complainant, William A. Booth, for the prosecution and recovery of his claim, set forth in the foregoing bill of complaint, to the sum of money lately awarded in favor of Ferdinand Clark by the board of commissioners appointed under the act of Congress to carry into effect certain stipulations of the treaty between the United States and Mexico, of the second of February, 1848: that this affirmant has read the said bill of complaint,

and knows the contents thereof: that he was the attorney and solicitor of Juan de la Camara in the suits at law and in chancery against Ferdinand Clark that are mentioned in said bill, and that all the statements made in the said bill in relation to the recovery of the judgment at law against said Clark, the issuing and return of the writ of fieri facias thereon, the filing of the judgment creditor's bill in the court of chancery of the State of New York, the appointment of the said William A. Booth as receiver, and the other proceedings in the suit in said court of chancery are true of his personal knowledge; and with respect to all the other allegations and statements in the said bill of complaint, this affirmant says that, as he has been informed and verily believes, the same are true in every particular.

AND'W S. GARR.

Affirmed this 29th day of May, 1851, before

WM. R. WOODWARD,

*Justice of the Peace in and for the County of Washington, District of Columbia.*

On which said bill of complaint are the following endorsements, to wit:

*Injunction ordered.*

"On the filing of this bill and exhibits, and a bond to the defendant, with security, to be approved by this court, or one of the judges thereof, in the penalty of thirty-five thousand dollars, let the injunction issue as prayed, to restrain the the defendant, &c., from receiving the money in said bill mentioned.

By order of the Court. Test:

JNO. A. SMITH, *Clerk*."

"Bond with security in the case have been filed with and approved by me.

P. R. FENDALL, *U. S. Att'y*.

D. C., 29 May, '51."

*Exhibit A in the above bill, &c.*

J. de la Camara's judg't vs. F. Clark.

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye that we, having inspected the records and files of our supreme court of the State of New York, at the city of New York, do find a certain judgment record remaining there on file, in the words and figures following, to wit:

*Exhibit A.*

NEW YORK SUPREME COURT.

Pleas before the justices of the supreme court of judicature of the people of the State of New York, at the academy in Utica, of the term of July, in the year one thousand eight hundred and forty-one.

Witness, Samual Nelson, esq., chief justice; Hallett, Paige, Denio, and Sutherland, clerks.

CITY AND COUNTY OF NEW YORK, *ss:*

Be it remembered, that on the seventh day of August, in the year one thousand eight hundred and forty-one, of July term, now last past, before the justices of the supreme court of judicature of the people of the State of New York, at the academy in Utica, comes Juan de la Camara, by Andrew S. Garr, his attorney, and brings into the said court, before the aforesaid justices thereof, now here, his certain declaration against Ferdinand Clark, of a plea of trespass on the case upon promises, which said declaration follows in these words, that is to say:

CITY AND COUNTY OF NEW YORK, *ss:*

Juan de la Camara, plaintiff in this suit, by Andrew S. Garr, his attorney, comes into this court, according to the form of the statute authorizing the commencement of suits by declaration, and complains of Ferdinand Clark, defendant in this suit, of a plea of trespass on the case upon promises: for that whereas the defendant, on the twenty-seventh day of April, in the year one thousand eight hundred and forty-one, in parts beyond the seas, to wit, at Havana, in the island of Cuba, that is to say, at the city and in the county of New York, made his bill of exchange in writing, and directed the same to certain persons by the names, style, firm, and description of Messrs. Clark & Co., 63 Water street, New York, and thereby required the said Clark & Co. to pay to the order of the plaintiff two thousand dollars, value received of him, sixty days after sight of that fourth of exchange, (first, second, and third unpaid,) and which period has now elapsed, and then and there delivered the same to the plaintiff; and the said Clark & Co. afterwards, on the fifteenth day of May, in the said year, at the city and in the county of New York, saw and accepted the said bill; and the said Clark & Co. afterwards, on the fifteenth day of May, in the said year, at the city and in the county of New York, saw and accepted the said bill; and the said Clark & Co. did not pay the said bill, although the same was duly presented to them at the place last mentioned on the day when it became due, that is to say, on the seventeenth day of July, in the said year, and

thereupon the said bill was then and there duly protested for non-payment thereof, of all which the defendant then and there had notice.

And whereas also the defendant, on the twenty-seventh day of April, in the year one thousand eight hundred and forty-one, in parts beyond the seas, to wit, at Havana, in the island of Cuba, that is to say, at the city and in the county of New York, made his certain other bill of exchange in writing, and directed the same to certain persons by the names, style, firm, and description of Messrs. Clark & Co., 63 Water street, New York, and thereby required the said Clark & Co. to pay to the order of the plaintiff two thousand dollars, value received of him, sixty days after sight of that fourth of exchange, (first, second, and third unpaid,) and which period has now elapsed, and then and there delivered the same to the plaintiff; and the said Clark & Co. afterwards, on the fifteenth day of May, in the said year, at the city and in the county of New York, saw and accepted the said last mentioned bill, and the said Clark & Co. did not pay the said last mentioned bill, although the same was duly presented to them at the place last mentioned on the day when it became due, that is to say, on the seventeenth day of July, in the said year, and thereupon the said last mentioned bill was then and there duly protested for non-payment thereof, of all which the defendant then and there had due notice.

And whereas the defendant afterwards, to wit, on the thirty-first day of July, in the year aforesaid, at the place aforesaid, in consideration of the premises respectively, then and there promised to pay the said several moneys respectively to the plaintiff on request, yet he hath disregarded his promises, and hath not paid either of the said moneys, or any part thereof, to the plaintiff's damage of eight thousand dollars, and thereupon he brings suit, &c.

And the said Ferdinand Clark, defendant in this suit by J. Hopkins Stewart, his attorney, comes and defends the wrong and injury, &c., and says that he did not undertake and promise, in manner and form, as the said plaintiff in this suit has above declared against the said defendant, and of this he puts himself upon the country and the said plaintiffs, &c.

(To which plea is annexed the following notice:)

Please to take notice that the said defendant, at the trial of the above cause, will insist upon and give in evidence, under the general issue above pleaded, that the said plaintiff, at the time of the commencement of the action aforesaid against the said defendant, was, and still is, indebted unto him in the sum of eight thousand dollars, lawful money of the United States of America, for divers goods, wares, and merchandise, before that time sold and delivered by the said defendant to the said plaintiff, and at the special instance and request of the said plaintiff; and in the further sum of eight thousand dollars, of like lawful money, for the work and labor, care and diligence, of the said defendant, by the

said defendant and his servants before that time done, performed, and bestowed in and about the business of the said plaintiff, and for the said plaintiff, and at his like request; and in the further sum of eight thousand dollars, of like lawful money, for money before that time lent and advanced by the said defendant to the said plaintiff, and at the like request of the said plaintiff; and for other money by the said defendant before that time paid, laid out, and expended for the said plaintiff, and at the like request of the said plaintiff; and for other money by the said plaintiff and for other money the said plaintiff before that time had and received to and for the use of the said defendant. And also, that the said plaintiff, before the commencement of this action, accounted together with the said defendant, of and concerning the said demand of the said plaintiff against the said defendant, and also of and concerning divers other sums of money and accounts between the said plaintiff and the said defendant, and upon such accounting, the said plaintiff was found to be in arrear and indebted to the said defendant in the further sum of eight thousand dollars, of like lawful money, which the said plaintiff undertook, and then and there faithfully promised the said defendant, well and truly to pay unto the said defendant, when the said plaintiff should be thereunto afterwards requested; which said several sums of money, or so much thereof as will be sufficient for that purpose, the said defendant will set off against the demand of the said plaintiff, to be proved at the trial, and have the balance certified in his favor.

Therefore the issue above joined is ordered by the said supreme court to be tried at the circuit court appointed to be held at the City Hall of the city of New York, in and for the city and county of New York, on the fourth Monday of September next.

A day is given to the parties aforesaid, before the said justices, at the supreme court of judicature aforesaid, at the court-house in the city of Rochester, on the third Monday of October next.

And now, at this day, to wit, on the third Monday of October, in the year one thousand eight hundred and forty-one, before the said justices of the supreme court of judicature aforesaid, at the court-house in the city of Rochester, came the parties aforesaid, by their respective attorneys aforesaid, and because the aforesaid issue, so as above joined in this cause between the parties aforesaid, was not tried at the said circuit court, held at the time and place aforesaid, in and for the said city and county of New York, therefore the process between the parties aforesaid is continued until the circuit court appointed to be held at the City Hall of the city of New York, in and for the city and county of New York aforesaid, on the fourth Monday of December, in the year one thousand eight hundred and forty-one, a day is given to the parties aforesaid, before the said justices, at the Capitol, in the city of Albany, on the first Monday of January next.

And now at this day, to wit, on the first Monday of January, in the year one thousand eight hundred and forty-two, before the said justices of the supreme court of judicature, at the Capitol, in the city of Albany, comes the said Juan de la Camara, by his attorney aforesaid, and William Kent, esq., circuit judge of the first circuit, before whom the said issue was tried, hath sent hither his record had before him in these words, to wit: "afterwards, that is to say, on the day and at place within contained, before William Kent, esq., circuit judge of the first circuit, according to the form of the statute in such case made and provided, comes the within named Juan de la Camara, by his attorney within mentioned, and the within mentioned Ferdinand Clark, although solemnly required, comes not, but makes default; therefore, let the jurors of the jury be taken against him by his default; and the jurors of the jury summoned to try the said issue being called, also come, who, to speak the truth of the matters within contained, being chosen, tried, and sworn, say, upon their oaths, that the said Ferdinand Clark did undertake and promise, in manner and form, as the said Juan de la Camara hath within complained against him, and the assess the damages of the said Juan de la Camara, by reason of the premises, over and above his costs and charges by him about his suit in this behalf expended, to four thousand five hundred and sixty-seven dollars and sixty-eight cents, and for those costs and charges to six cents.

Therefore, it is considered that the said Juan de la Camara do recover against the said Ferdinand Clark his said damages, costs, and charges, by the jurors aforesaid, in form aforesaid assessed, and also one hundred dollars and seventy-five cents, for his cost and charges, by the said court now here adjudged of increase to the said Juan de la Camara, and with his assent; which said damages, costs, and charges in the whole amount to four thousand six hundred and sixty-eight dollars and forty-nine cents; and the said Ferdinand Clark; in mercy, &c.

Judgment signed the fifth day of March, 1852.

W. P. HALLETT.

(Endorsed) Supreme Court, Juan de la Camara vs. Ferdinand Clark. Judgment Record, A. S. Garr, attorney for plaintiff. Filed March 5th, 1842, at 20 m. before 3 p. m. Docketed.

[SEAL.] All which we have caused by these presents to be exemplified, and the seal of our said supreme court to be hereunto affixed.

Witness, John W. Edmonds, esquire, presiding justice of our said supreme court of the State of New York, at the city of New York, this tenth day of June, A. D. 1851, and in the 75th year of the independence of the United States of America.

GEO. W. RIBLET, *Clerk*.

I, John W. Edmonds, presiding justice of the supreme court of the State of New York, at the city of New York, do certify that George W. Riblet, whose name is subscribed to the preceding exemplification,

is clerk of the city and county of New York, and clerk of the supreme court for said city and county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal hereunto affixed is the proper seal of said supreme court, and that the attestation thereof is in due form of law.

Given under my hand at the City Hall, in the city of New York, this 10th day of June, A. D. 1851.

J. W. EDMONDS,
*Presiding Justice.*

*Fieri Facias.*

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come, greeting:

[SEAL.] Know ye that we, having inspected the files of our supreme court of the State of New York, at the city of New York, do find a certain writ of fieri facias remaining there on file of record, in the words and figures following, to wit:

*Fi. fa.*

The people of the State of New York to the sheriff of the city and county of New York, greeting:

We command you, that of the goods and chattels of Ferdinand Clark, defendant, in your county, you cause to be made four thousand and six hundred and sixty-eight dollars and forty-nine cents, to satisfy a judgment lately rendered in our supreme court of judicature against the said defendant, for the damages which Juan de la Camara, plaintiff, had sustained, as well by reason of the non-performance of certain promises and undertakings then lately made by the said defendant to the said plaintiff, as for the costs and charges by the said plaintiff laid out and expended as appears of record; and if sufficient goods and chattels cannot be found, that then you cause the amount of the said judgment to be made of the real estate which the said defendant had on the fifth day of March, one thousand eight hundred and forty-two, or at any time afterwards, in whose hands soever the same may be; and have you that money before our justices of our said court sixty days from the receipt hereof, to be paid to the said plaintiff in satisfaction of the judgment aforesaid, and have you then also this writ.

[SEAL.]

Witness Samuel Nelson, esquire, chief justice, at the Capitol, in the city of Albany, the fifteenth day of Albany, the fifteenth day of January, one thousand eight hundred and forty-two,

A. S. GARR, *Attorney.*
HALLET, PAIGE, DENIO, & SUTHERLAND,
*Clerks.*

On which said fieri facias is endorsed the following, to wit:

"No goods, chattels, or real estate.

M. B. HART, *Sh'ff.*"

All which we have caused to be exemplified, and the seal of our said supreme court to be hereunto affixed.

Witness, John W. Edmonds, esquire, presiding justice of our said supreme court of the State of New York, at the city of New York, this fourteenth day of June, A. D. 1851, and in the 75th year of our independence.

GEO. W. RIBLET, *Clerk*.

I, John W. Edwards, presiding justice of our supreme court of the State of New York, at the city of New York, do certify that George W. Riblet, whose name is subscribed to the preceding exemplification, is clerk of the city and county of New York, and clerk of the supreme court for said city and county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal hereunto affixed is the proper seal of said supreme court, and that the attestation thereof is in due form of law. Dated New York, June 14th, A. D. 1851.

J. W. EDMONDS,
*Presiding Justice*.

*Exhibit B.*

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye that we, having inspected the records and files in the office of the clerk of the city and county of New York, and clerk of the supreme court of said State for said county, do find a certain report there remaining, which is in the words and figures following, to wit:

*In Chancery.*

Before the Vice Chancellor.

JUAN DE LA CAMARA
vs.
FERDINAND CLARK.

*Exhibit B.*

To the chancellor of the State of New York:

In pursuance of an order of this court, made in the above entitled cause by the vice chancellor of the first circuit, and bearing date the twenty-eighth day of June, in the year of our Lord one thousand eight hundred and forty-two, whereby, amongst other things, it was referred to the undersigned, one of the masters of this court, residing in the city of New York, to appoint a receiver in this cause, of the money, property, things in action, and effects of the above

named defendant, with the usual powers and authority of receivers in like cases, and that said master take from such receiver the necessary and usual security, and file the same in the proper office.

*Appointment of receiver.*

I, David Codwise, the master named in said order, do report, that I have been attended on the said reference by the solicitor and counsel of the complainant and of the defendant.

That I thereupon proceeded on the matters so referred: that William A. Booth, of the ———, was proposed on the part of the complainant to be the receiver in this cause, and no objection being made to his appointment, and deeming him a fit and proper person for such trust, I have appointed him to be such receiver: that the said William A. Booth thereupon executed a bond in the usual form, to the people of the State of New York, in the penal sum of nine thousand dollars, conditioned for the faithful discharge of his duties as such receiver: that Julian Castalan and Elias Ponvert, of the city of New York, were proposed as the securities of the said receiver, and being satisfied by their affidavits of justification that they were each worth the requisite security, I approved of the said sureties as sufficient; and the said sureties thereupon executed the said bond jointly with the said receiver.

And I do further report, that I have caused the said bond, with my approval endorsed thereon, and the said affidavits of justification, to be filed in the office of the clerk of this court. All which is respectfully submitted.

J. CODWISE,
*Master in chancery.*

Dated New York, August 3, 1842.
Filed March 27, 1843.

[SEAL.] All which we have caused, by these presents, to be exemplified, and the seal of our said supreme court to be hereto affixed.

Witness, John W. Edmonds, justice, at the city of New York, the twenty-sixth day of May, A. D. 1851, and in the seventy-fifth year of our independence.

GEO. W. RIBLETT, *Clerk*.

STATE OF NEW YORK,
*City and County of New York*:

I, John W. Edmonds, presiding justice of the first judicial district of the supreme court of the State of New York, do hereby certify, that George W. Riblett, who name is subscribed to the proceeding exemplication, is clerk of the city and county of New York, and clerk of the supreme court of said State for said county, and, as such, has

the custody of the records and files of said supreme court, and of the late court of chancery of said State, in said county: that the seal thereto affixed is the seal of said supreme court for said county, and that the attestation of the above report is in due form.

In witness whereof, I have hereunto subscribed my name, the twenty-sixth day of May, A. D. 1851.

J. W. EDMONDS.

Thereupon, the complainant, by his said solicitor, filed in court here the following injunction bond, to wit:

*Injunction bond.*

Know all men by these presents, that we, William A. Booth, receiver, appointed by the court of chancery of the State of New York, of the money, property, things in action, and effects of Ferdinand Clark, Elias Ponvert, of the city of New York, and Edward Theband, of the said city, are held and firmly bound unto Ferdinand Clark in the sum of thirty-five thousand dollars, lawful money of the United States, to be paid to the said Ferdinand Clark, his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves and each of us, our and every of our executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this third day of June, eighteen hundred and fifty-one.

Whereas, the above bounden, William A. Booth, receiver as aforesaid, hath filed his bill in the circuit court of the District of Columbia, praying, among other things, for an injunction to restrain the said Ferdinand Clark, his agents and attorneys, and every person and persons claiming the same by, from, through, or under him, from receiving from the Secretary of the United States the sum of eighty-six thousand seven hundred and eighty-six dollars and twenty-nine cents, until the further order of the said court; and the said court hath ordered the said injunction to be issued as prayed, on the filing of his bond.

Now the condition of the above obligation is such, that if the said William A. Booth (receiver as aforesaid) shall well and truly prosecute his said cause, and shall well and truly pay to the said Ferdinand Clark all such costs and damages as hall be sustained by him, and adjudged by the court, in case the said injunction shall be dissolved, then this obligation to be of no effect; otherwise to be and remain in full force and virtue in law.

WM. A. BOOTH, [L. S.]
E. PONVERT, [L. S.]
EDW. THEBAND, [L. S.]

Sealed and delivered in presence of—

OTIS W. BOOTH,
Witness for Wm. A. Booth.

A. C. WILWRARTH,
JOSEPH BRIDGHAM,
Witnesses for E. Ponvert and Edw'd Theband.

CITY AND COUNTY OF NEW YORK, *ss:*

Elias Ponvert and Edward Theband, two of the obligors named in, and who have executed, the foregoing bond, being duly sworn, do severally depose and say: And first this deponent, Elias Ponvert, for himself, saith, that he is a housekeeper, and resides in the city of New York, and that he is worth the sum of thirty-five thousand dollars over and above what will pay all his debts; and this deponent, Edward Theband, for himself, says, that he is a housekeeper, and resides in the city of New York, and that he is worth the sum of thirty-five thousand dollars over and above what will pay all his debts.

E. PONVERT,
EDW. THEBAND.

Sworn, this third day of June, 1851, before me.

JOSEPH BRIDGHAM,
*U. S. Com'r.*

This bond and security is approved.

JAS. DUNLOP.

From my knowledge of the general reputation of Messrs. Ponvert & Theband (the securities to the foregoing bond) for respectability and wealth, I do hereby certify that they are, in my judgment, sufficient to secure and make good the penalty thereof.

Southern District of New York, in the second circuit, June 3d, 1851.

J. PRESCOT HALL,
*U. S. Dist. Attorney.*

UNITED STATES OF AMERICA,
*Southern District of New York, ss:*

I, John W. Nelson, clerk of the circuit court of the United States of America, for the southern district of New York, second circuit, do hereby certify that I am well acquainted with the handwriting of Joseph Bridgham, whose name is subscribed to the annexed jurat, and that the signature to the same is in his proper handwriting; and I do further certify, that he was, at the time of signing the same, a United States commissioner, duly appointed under and by virtue of the several acts of Congress, &c., by the circuit court of the United States of America, for the southern district of New York.

1492.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the said circuit court, this third day of June, in the year of our Lord one thousand eight hundred and fifty-one, and of the independence of these United States the seventy-fifth.

[SEAL.]

JOHN W. NELSON, *Clerk.*

*Subpœna and injunction.*

Thereupon, subpœna and injunction issued, and notice served on the Secretary of the Treasury.

*Continued.*

Thereupon, further proceedings of and upon the premises aforesaid, with the consent of the parties, by their solicitors, and by order of the court, are continued regularly at rules until the first Monday of October next, when the following answer of Ferdinand N. Clark to the foregoing bill of complaint was filed in court by John L. Hayes, esq., his solicitor.

*In equity.*

IN THE CIRCUIT COURT OF THE UNITED STATES,
*For the District of Columbia.*

The answer of Ferdinand N. Clark, otherwise called Ferdinand Clark, defendant to the bill of complaint of William A. Booth, complainant, against this defendant.

*Clark's answer.*

This defendant now and at all times saving and reserving to himself all advantage and benefit of exception to the errors and imperfections contained in said bill, for answer thereto, or to so much thereof as he is advised it is material for him to make answer unto; he answering, admits that some time in the year one thousand eight hundred and forty-two, one Juan de la Camara recovered a judgment at law in the supreme court of judicature of the State of New York, against this defendant; but as to the amount of said judgment, this defendant saith that he is not informed, save by the said complainant's bill.

And this defendant, further answering, saith that this defendant is not informed but by the said complainant's bill, whether the proceedings founded upon, and growing of said judgment, and particularly set forth in said complainant's bill, were had as alleged in said bill; and this defendant prays that, if material, said complainant may be compelled to make proof thereof.

And this defendant saith that he is advised by counsel that no such

proceedings, nor any proceedings mentioned or described in said complainant's bill, caused or created any such lien as was intended to be protected or secured, or was protected and secured, by the second section of the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," passed August 19th, 1841.

And this defendant, further answering, admits that no part of the property, things in action, and effects of this defendant ever came into the hands, possession, and control of the said complainant. And this defendant admits that, at the time of the proceedings alleged in said complainant's bill to have been had in the State of New York, and before that time, this defendant was possessed of a claim against the republic of Mexico; but he says that all the evidences and papers in support of said claim were lodged in the public archives at the city of Washington.

And this defendant admits that the board of commissioners appointed under the act of Congress, approved March 3d, 1849, entitled "An act to carry into effect certain stipulations of the treaty between the United States of America and the republic of Mexico, of the second day of February, one thousand eight hundred and forty-eight," has recently made an award upon the said claim in favor of this defendant, for the sum of eighty-six thousand seven hundred and eighty-six dollars and twenty-nine cents, or thereabouts; which sum is now in the hands of the honorable Thomas Corwin, Secretary of the Treasury of the United States.

And this defendant, further answering, saith that on the 28th day January, 1843, this defendant being at that time a resident of the State of New Hampshire, filed in the clerk's office of the district of New Hampshire his petition to be declared a bankrupt: that on the 22d day of March, 1843, after due notice, this defendant was, by said district court, declared and decreed a bankrupt, pursuant to the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," passed August 19th, 1841: that annexed to the petition of this defendant to be declared bankrupt, was a schedule marked B, which schedule contained an accurate inventory of the property, rights, and credits of this defendant, at the time of filing said petition, of every name, kind, and description: that among things in said schedule, there was mentioned, as belonging to this defendant, and as particularly mentioned and described as was required by the rules and practice of said district court, a claim against the Mexican republic, which claim, this defendant says, is the identical claim above named, and upon which the award mentioned in said complainant's bill was founded.

And this defendant says, that on the 22d day of March, 1843, by a decree of said district court of New Hampshire, one John Palmer, of South Hampton, in said district, was duly appointed assignee of the estate of this defendant, and gave his bond, in compliance with the order of said court; and this defendant says, that by force of said

decree of bankruptcy, and by the appointment of said assignee, and by operation of law, all the property and rights of property of this defendant, of every name and nature, and among others, said claim against the republic of Mexico, became vested in said assignee.

And this defendant says, that on the 17th day of December, 1844, after due notice, it was ordered and decreed by the said district court that this defendant was fully discharged of and from all his debts owing by him in his private capacity at the time of the presentation of the petition of this defendant to be declared a bankrupt. And this defendant says that he was thereby discharged from the judgment recovered by the said Juan de la Camara against this defendant in the State of New York, and mentioned and described in said complainant's bill; said judgment having been obtained previous to the presentation of the petition of this defendant to be declared bankrupt.

And this defendant says that notice of all the proceedings in his matter in bankruptcy was published in the leading papers in New Hampshire; and he is informed and believes, and so states the fact to be, that notice of the pendency of proceedings in bankruptcy in the district court in New Hampshire aforesaid, was personally served upon each of the creditors of the bankrupt who resided without the State of New Hampshire. And this defendant says that the name and residence of the said Juan de la Camara, among others, was placed on the list of creditors attached to the petition of this defendant to be declared bankrupt; and this defendant believes and says that the said Juan de la Camara and the said complainant, had notice of the pendency of the proceedings in bankruptcy in behalf of this defendant.

And this defendant says, that notwithstanding all the creditors of this defendant had notice of the proceedings in bankruptcy aforesaid, neither the said Juan de la Camara, nor any other creditor of this defendant, ever filed in the district court aforesaid any proof of debt in the matter of this defendant in bankruptcy until after the award aforesaid; nor has the said Juan de la Camara, or the said Juan de la Camara, or the said complainant, ever filed or made any objections to the proceedings in bankruptcy in behalf of this defendant, or to the doings of the assignee aforesaid; and this defendant insists that if any loss or injury has accrued to the said complainant, in consequence of the proceedings in bankruptcy aforesaid, or on account of the management of the said assets in bankruptcy by said assignee, it has been wholly through the laches and negligence of the said complainant.

And this defendant, further answering, says that on the 14th day of March, 1845, the said John Palmer, assignee as aforesaid, filed his petition in said district court of New Hampshire, praying the said court to pass an order and decree that all the estate and property of which this defendant was seized at the time of his bankruptcy, should be sold, transferred, and assigned; and thereupon, on the 14th day of March, A. D. 1845, it was ordered by said court that all the estate, property, and demands of said bankrupt, as specified in the prayer of

said petition and in the schedules thereto annexed, should be sold at public auction within six months from the date of said order, and at such intermediate times and at such places as in the opinion of the assignee would best promote the interest of all concerned, after reasonable notice of such sale should have been given, either by posting up or inserting the same in some newspaper ten days before the sale.

And this defendant says that the said John Palmer, assignee as aforesaid, in pursuance of said decree, and after having complied with all the orders of said district court in the premises, and having given notice, according to the order of said court, did, on the ninth day of April, A. D. 1845, sell at public auction, to one R. M. Clark, of Boston, all the estate, property, and demands of the said bankrupt, this defendant, and mentioned in the schedules attached to the petition of this defendant to be declared bankrupt, and in the petition for sale and schedules thereto annexed, of said assignee, the said R. M. Clark being the highest bidder therefor; and this defendant says that the aforesaid claim against the Mexican republic was specifically mentioned in said schedules, and was included in said sale, and that all the interest in and title thereto, by virtue of said sale, under the decree and proceedings aforesaid, passed from said assignee to said R. M. Clark; and that by force of said sale, under the decree and proceedings aforesaid, the said claim against the republic of Mexico passed to said R. M. Clark, discharged of all or any lien whatsoever which might have existed thereon.

And this defendant says that the said John Palmer, assignee as aforesaid, on the 9th day of April, A. D. 1845, aforesaid, executed and delivered to the said R. M. Clark a formal bill of sale, sealed and acknowledged, conveying, transferring, and assigning all said estate, property, and demands, specifically mentioning, in the schedule attached thereto, among other things, demands, and claims, the claim against the Mexican republic aforesaid, a copy of which bill of sale this defendant exhibits, marked (A,) and prays to make proof of the original. And this defendant also exhibits an exemplified copy of all the proceedings in bankruptcy aforesaid, marked (B,) V. Hackett, assignee, vs. Ferd'd Clark.) And this defendant expressly avers that no artifice or fraud was resorted to by this defendant to depress the value of said demands and claims, and in particular said claim against the republic of Mexico, neither does he know or believe that any artifice, collusion, or fraud was used by any person whatsoever in relation to said sale. And he says that at the time of the sale of said estate, property, claims and demands, including the said claim against the republic of Mexico, the same were reputed to be nearly if not wholly without value; and he believes that said claims were considered by said claimant, and by all the creditors of this defendant, as without value; and he says that circumstances wholly unforeseen at the time of said sale have since occurred, which have given value to said claim against the republic of Mexico.

And this defendant says that on the tenth day of April, A. D. 1845, he purchased, for a valuable consideration, of said R. M. Clark, and all the estate, property, and demands conveyed by said assignee to said R. M. Clark, and among them said claim against the republic of Mexico; and that on said tenth day of April, A. D. 1845, the said R. M. Clark conveyed to this defendant, by a formal and valid bill of sale, all the right, title, and interest which the said R. M. Clark had in the estate, property, and demands conveyed to the said R. M. Clark by said assignee, a copy of which bill of sale this defendant exhibits, marked (C,) and prays to make proof of the original; all said exhibits being filed with the answer of this defendant to the bill of Benjamin C. Clark against this defendant, (exh't C, vide Hackett, assignee, vs. F. Clark.) And this defendant says that by virtue of said sale and conveyance, all the right, title, and interest in said claim against the republic of Mexico became vested in this defendant, and that he thereby acquired a right to prosecute said claim in his own behalf, and to appropriate to his own use the whole amount of the award founded on said claim.

And this defendant says that he prosecuted said claim wholly at his own expense and risk, and that he expended much time and large sums of money to procure evidence and to employ agents to aid in the prosecution of said claim.

And this defendant humbly submits and insists that, as the bona fide purcher of said claim, he is entitled to the sole benefit of said award; and that if said claim, at the time that this defendant entered into bankruptcy as aforesaid, and at the time of the sale aforesaid, possessed great value, which this defendant denies, the creditors of this defendant, the said Juan de la Camara and said complainant were guilty of laches and negligence in not looking after said claim against the Mexican republic when it was placed in the hands of the assignee aforesaid for their benefit.

And this defendant further says that the said complainant has not filed a notice to the Secretary of the Treasury of his intention to contest the payment of the award aforesaid, or his bond for the payment of costs and damages, according to the provisions of the 8th section of an act entitled An act to carry into effect certain stipulations of the treaty between the United States of America and the republic of Mexico of the second day of February, one thousand eight hundred and forty-eight, and that therefore this complainant is not entitled to any relief from this honorable court.

And this defendant denies all combination and confederacy charged against him in said bill of complaint and said amended bill, without that, that any other matter or thing in the said bill of complaint or said amended bill contained, and not herein and hereby well and sufficiently answered unto, confessed and avoided, traversed or denied, is true, to his knowledge or belief.

All which matters and things this defendant is ready to aver, prove,

and maintain, as this honorable court shall direct, and prays to be hence dismissed, with his damages, costs, and charges, in this behalf most wrongfully sustained.

F. N. CLARK.

UNITED STATES OF AMERICA,
*District of Massachusetts, ss.*

On this second day of October, 1851, personally appeared F. N. Clark, and makes oath that the facts stated in the above answer as of his own knowledge, are true, and as far as stated on affirmation and belief, he believes that to be true as stated.

Before me, GEORGE. S. HILLIARD,
*Commissioner of the Circuit Court of the United States for Massachusetts District.*

*Motion to dissolve injunction.*

Thereupon the defendant, by his solicitor aforesaid, entered his motion in this court to dissolve the injunction heretofore in this cause granted; and at the same time the complainant, by his solicitor aforesaid, filed in court here the following bill and proceedings in chancery, to wit:

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye that we, having inspected the records and files in the office of the clerk of the city and county of New York, and clerk of the supreme court of said State for said county, do find a certain enrolled decree, orders, &c., on which it was granted, there remaining, which is in the words and figures following, to wit:

*In chancery, before the vice chancellor of the first circuit.*

To the chancellor of the State of New York, humbly complaining, shows unto your honors, your orator, Juan de la Camara, of the city of Havanna, in the island of Cuba, that heretofore, to wit, on the fifth day of March, in the term of January, in the year of our Lord one thousand eight hundred and forty-two, in the supreme court of judicature of the State of New York, by the consideration and judgment of the said court, your orator recovered against Ferdinand Clark, late of the said city of Havanna, but then of the city of New York, the sum of four thousand six hundred and sixty-eight dollars and forty-nine cents, for the damages which your orator had sustained, as well by reason of the non-performance of certain promises and undertakings before then made to him by the said Ferdinand Clark, as for the costs and charges by your orator in and about that suit laid out and expended, which were adjudged to your orator in and by the said court, whereof the said Ferdinand Clark was convicted, as by the

record and docket of the said judgment, now in the office of the clerk of the said court, at the City Hall, in the city of New York, or by an exemplified copy thereof, reference being thereunto had, and to which, for greater certainty, your orator prays leave to refer, will more fully and at large appear. And your orator further shows unto your honor that the said judgment so recovered in manner aforesaid remaining in full force and effect, and the damages aforesaid remaining unpaid and unsatisfied, your orator, by Andrew S. Garr, his attorney, on or about the fifth day of April, in the year of Lord one thousand eight hundred and forty-two, for the purpose of obtaining satisfaction of the said judgment, sued and prosecuted out of the said court a writ of the people, called a fieri facias, directed to the sheriff of the city and county of New York, that being the same county in which the defendant resided, by which said writ, the said sheriff was commanded, that of the goods and chattels of the said Ferdinand Clark, within his county, he should cause to be made four thousand and six hundred and sixty-eight dollars and forty-nine cents, for the damages aforesaid; and if sufficient goods and chattels of the said Ferdinand Clark could not be found in his county, that then he should cause the damages aforesaid to be made of the real estate which the said Ferdinand Clark had on the fifth day of March, one thousand eight hundred and forty-two, or at any time afterwards, in whose hands soever the same might be; and that he should have that money before the justices of the said court sixty days from the receipt of the said writ, to satisfy the judgment so recovered by your orator as aforesaid, and that he should have then that writ; and your orator further shows unto your honor, that the said writ, before the delivery thereof to the said sheriff, was duly endorsed with a direction for the said sheriff to levy the sum of four thousand six hundred and sixty-eight dollars and forty-nine cents, with interest from the said fifth day of March, in the year of our Lord one thousand eight hundred and forty-two, besides his fees; and that the said writ, so endorsed as aforesaid, afterwards, to wit, on the fifth day of April, in the year of our Lord one thousand eight hundred and forty-two, was delivered to the said sheriff to be executed in due form of law. And your orator further shows unto your honor, that the said sheriff, on the eighth day of June, in the year of our Lord one thousand eight hundred and forty-two, returned the said writ to him in that behalf, directed and delivered as aforesaid, with his return endorsed thereon, that the said Ferdinand Clark had no goods, chattels, lands or tenements in his bailwick whereon he could levy to satisfy the same, or any part thereof, as by the said writ and the directions and the return endorsed thereon as aforesaid, filed in the office of the clerk of the said court, at the City Hall, in the city of New York, on the said eighth day of June, in the year one thousand eight hundred and forty-two, will more fully appear, and to which, or to an exemplified copy thereof, your orator prays leave to refer; of all which matters hereinabove stated, relating to the recovery of the said judgment, the

issuing of the said writ, and the return thereof, your orator has been informed by Andrew S. Garr, esq., his solicitor in this cause, and your orator believes the same to be true: and your orator further shows unto your honor, that, as he has been informed and believes to be true, the said judgment still remains in full force and effect, not reversed or satisfied, or otherwise vacated, and that the said Ferdinand Clark has not paid the same to your orator, but has hitherto wholly neglected and refused so to do: and your orator further shows unto your honor, that there is now actually and equitably due to your orator upon the said judgment the sum of four thousand six hundred and sixty-eight dollars and forty-nine cents, over and above all just claims of the said Ferdinand Clark by way of offset or otherwise: and your orator further shows unto your honor, that he has reason to believe, and does believe, that the said Ferdinand Clark has equitable interests, things in action, or other property, of the value of one hundred dollars and more, exclusive of all prior just claims thereon, which your orator has been unable to discover and reach by execution on the said judgment: and your orator further shows unto your honor, that, as he has been informed and believes to be true, the said Ferdinand Clark has considerable amount of money, or of legal or equitable debts, claims, or demands due to him from different persons whose names are unknown to your orator, consisting of book accounts, due bills, drafts, checks, promissory notes, bonds, mortgages, judgments, or other securities or things in action, or that he has money, or other personal property, either in possession or held in trust for him, the situation, value, and particulars of which are unknown to your orator, and that your orator is fearful that the said Ferdinand Clark will make way with, or place the same beyond the control of this court or of a court of law: and your orator further shows unto your honor, that this bill of complaint is not exhibited by collusion with the said Ferdinand Clark, or for the purpose of protecting the property and effects of the said Ferdinand Clark, or any part thereof, against the claim of other creditors, but for the sole purpose of compelling payment and satisfaction of the money due upon the aforesaid judgment: and your orator further shows unto your honor, that he has reason to believe, and therefore charges, that the said Ferdinand Clark possesses, owns, or has some interest in, some real estate, or chattels real, or in some personal property in possession, reversion, or remainder, of some name or kind, or that he has some interest in some lease or leases, mortgage or mortgages, lien or liens, on land or or leasehold estate of some name or kind, or that he is possessed of or entitled to some stock, public or private, in some bank or government fund, insurance company, or some other company or companies, chartered or unchartered, or that he is partner or otherwise interested with some other person or persons in the business or adventures, or interested in some business or partnership, or that he is interested in some property or thing or things in posses-

sion or action of some name or kind, in the stock of some bank or company in the city of New York, or some other place, but of what in particular your orator is ignorant, and prays a full disclosure and discovery in the premises from the said Ferdinand Clark of all the particulars thereof: and your orator further shows unto your honor, that he believes and charges that the said Ferdinand Clark has, or owns, some debt or debts due or owing to him from some person or persons in the United States or elsewhere, or that he is intrusted in some demand or demands, claim or claims, of some name or kind, on one or more person or persons, company or companies, government or governments, or that he is interested in some bills of exchange, promissory note or notes, check or checks, certificate or certificates of stock, or contract for the sale or purchase of stock, bond or bonds, of some name or kind, or has some money, or bank notes, or bills, or notes of some kind or other, which are intended to pass as money, but of which in particular your orator is ignorant, and prays from the said Ferdinand Clark a full disclosure and discovery in the premises of all the particulars thereof; or that there is or are one or more person or persons unknown to your orator, who holds some real or personal estate or property, or interest therein, or something in action, in trust for the said Ferdinand Clark, or for his benefit, in possession, reversion, or remainder, proceeding either from the said Ferdinand Clark or from some other person by devise, grant, assignment, or in some other manner for his benefit, or from some clause in some deed or assignment creating a trust in his favor, or in some other manner, of the particulars of which your orator is ignorant, and prays from the said Ferdinand Clark a full disclosure and discovery in the premises; or that the said Ferdinand Clark has made, or executed and delivered to some person or persons unknown to your orator, some assignment or assignments, as to the particulars of which your orator is ignorant, and prays from the said Ferdinand Clark a full disclosure and discovery in the premises, and of any property, real or personal, or interest in any property, real or personal, or in the profits thereof, which said property, or interest in property, or in the profits thereof, ought in justice to be transferred to your orator in satisfaction of his said judgment: and your orator further shows unto your honor, that the said Ferdinand Clark, combining and confederating to and with divers persons at present unknown to your orator, whose names, when discovered, your orator prays may be inserted herein with proper and apt words to charge them, is contriving to injure and oppress your orator in the premises, and under various pretences wholly neglects and refuses to pay the said judgment so recovered by your orator.

In consideration whereof, and forasmuch as your orator has no remedy in the premises at and by the strict rules of the common law, and cannot have adequate relief, except by the aid and interposition of this honorable court, where matters of this and the like nature are properly cognizable and relievable:

To the end, therefore, that the said defendant and the rest of the confederates, when discovered, may, upon their several and respective corporal oaths, full, true, direct, and perfect answer make to all and singular the matters hereinbefore stated and charged as fully and particularly, sentence by sentence, and paragraph by paragraph, as if they were thereunto interrogated, and that not only according to the best of their knowledge and rememberance respectively, but also according to the best of their understanding, information, hearsay, and belief, severally and respectively, and more especially that they may answer and set forth all the estate, real and personal, of every description, goods, chattels, money, stock, book accounts, due bills, promissory notes, bonds, mortgages, judgments, and other choses in action, and each of them belonging to the said defendant, Ferdinand Clark, as well at the time of filing this bill of complaint as until and at the time of filing his answer hereto, whether standing in his own name, or in the name or in the hands of any other person or persons for his use, or in trust for him, either express or implied, and what disposition has been made of each of the same, and where, fully and particularly, and the amount and value of each of them, and the names and places of residence of the debtors respectively, and the evidence of their indebtedness, and that they may set forth and state how much is due on each of such demands, and which of them are good and collectable, and which of them are doubtful, and which of them are bad, and who has the possession, custody, or control of the said money, goods, and chattels, book accounts, due bills, promissory notes, bonds, mortgages, judgments, and other choses in action, and each of them, fully and explicitly, and whether he is a housekeeper, and has a large or some amount of household furniture, and how much, and plate, jewelry, and to what amount, and where the same is situated and can be found, and whether he has made any assignment or transfer of any real or personal property since the rendition of the judgment aforesaid against him, and what was the consideration of such assignment or transfer, and to whom the same was made, and whether such consideration has been paid, and in what manner, and how much thereof is still due, and from whom.

And if he answers that he holds or has held any property of any nature or kind whatsoever, that he may set forth and discover the nature, amount, and value thereof, according to the best of his information, judgment, and belief, and where the same is situated and to be found, and that he may answer each and all the matters herein required of him to answer, with express reference as well to the time of filing this bill, as to the time of filing his answer hereto, and that a receiver of the money, property, and things in action of the said defendant, Ferdinand Clark, with the usual powers and authority in such case given, may be appointed by the order of this honorable court, and that the defendant, Ferdinand Clark, may be directed to assign, transfer, and deliver to the said receiver, upon oath, under the

direction of a master of this court, all property, equitable interests, things in action, money, and effects belonging to him, and all books and papers relating thereto, and the evidences thereof, so that your orator may have satisfaction of the sum due to him on the said judgment, together with the costs and charges in this behalf expended, and that the said Ferdinand Clark may be enjoined from collecting, receiving, selling, transferring, assigning, delivering, or in any way or manner using, controlling, or interfering with, or disposing of, any debts or demands due to him, or any goods, wares, merchandises, account books, bills, drafts, checks, money, stocks, promissory notes, bonds, mortgages, judgments, or other securities, things in action, property, or effects belonging to him, whether in his own name or hands, or in the name or hands of, or held by, any other person or persons for him, or for his use or benefit, or in trust for him, express or implied, until the further order of this honorable court; and that the said defendant may be enjoined from confessing any judgment, for the purpose of giving any other creditor a preference over your orator, and from doing any other act to enable other creditors to obtain the property of the said Ferdinand Clark, which your orator is unable to reach by execution; and that the said defendant be decreed to pay your orator the costs and charges in this behalf most wrongfully sustained, and that your orator may have such other and further relief in the premises, as to your honor shall seem meet and agreeable to equity and good conscience.

May it please your honor to grant unto your orator the people's writ of injunction, to be issued out of and under the seal of this honorable court, directed to the said Ferdinand Clark and his counselors, attorneys, solicitors, and agents therein and thereby, under a certain penalty in the said writ to be expressed, commanding and enjoining them, and each and every of them, as in the prayer of this, your orator's bill of complaint, is particularly stated and set forth, except where such trust has been created by, or the fund so held in trust has proceeded from, some other person than the defendant, Ferdinand Clark, until the further order of this honorable court.

And may it please your honor to grant unto your orator the people's writ of subpœna, issued out of and under the seal of this honorable court, to be directed to the said Ferdinand Clark, commanding him at a certain day, and under a certain penalty therein to be inserted, personally to be and appear before the vice chancellor of the first circuit in this honorable court, then and there to answer all and singular premises, and to stand to, abide, and perform such order and decree therein as to your honor shall seem agreeable to equity and good conscience.

And your orator will ever pray, &c.

JOSEPH WALLIS, *of Counsel.*
A. S. GARR,
*Sol. and of counsel for comp't.*

STATE OF NEW YORK,
*City and county of New York*, ss.

Julian Chastelain, one of the firm of Chastelain & Ponvert, of the city of New York, merchants, being sworn, saith, that Juan de la Camara, the complainant in the foregoing bill of complaint, resides in the city of Havana, in the island of Cuba, and is now there, as this deponent verily believes; that this deponent's said firm of Chastelain & Ponvert are the attorneys in fact of the said Juan de la Camara, for the purpose of suing for and recovering the sum of money mentioned in the said bill of complaint; that this deponent has read the said bill of complaint, and knows the contents thereof, and that this deponent has information as to all the matters stated therein, and from such information believes such matters to be therein truly stated, and the said bill to be true.

J. CHASTELAIN.

Sworn this 10th day of June, 1842, before me,
JOSEPH STONG,
*Commissioner of deeds.*

STATE OF NEW YORK,
*City and county of New York*, ss.

And. S. Garr, the solicitor of the complainant, in the foregoing bill of complaint, being duly affirmed, saith, that he was the attorney for the plaintiff in the suit at law therein mentioned. That this affirmant has read said bill, and knows the contents thereof, and that all the facts stated in said bill as to the recovery of the judgment, and the time of docketing the same, the amount of recovery against the defendant therein, and all the other facts relative of said recovery, the issuing, contents, and return of the fieri facias, the residence of the defendant, the directions contained in and endorsed upon said fieri facias, the return of the sheriff, and the time of the returning and filing of the said writ, as in the said bill stated and set forth, are true to the best of the knowledge and belief of this affirmant. And this affirmant further saith, that said judgment still remains in full force and effect, not set aside, vacated, annulled, reversed, or in any way satisfied to the knowledge or belief of the affirmant, and that all the facts which are stated in the foregoing bill to be upon the information of the complainant were communicated to Messrs. Chasterlain & Ponvert, the attorneys in fact of the complainant by this affirmant.

AND'W S. GARR.

Affirmed this 11th day of June, 1842, before me,
MURRAY HOFFMAN,
*Ass't Vice Chancellor.*

Endorsed: In chancery, before the V. Ch., Juan de la Camara vs. Ferdinand Clark. Bill of complaint. A. S. Garr, sol'c'r.

Let an injunction issue pursuant to the prayer of the within bill. June 11, 1842.

MURRAY HOFFMAN, *Ass. V. Ch.*

Filed June 13, 1842.

At a court of chancery held for the State of New York, at the city of New York, on the 13th day of June, one thousand eight hundred and forty-two.

Present, William T. McConn, vice chancellor of the first circuit.

JUAN DE LA CAMARA
vs.
FERDINAND CLARK.

On reading and filing the complainant's bill of complaint in the above entitled cause, together with the certificate of the assistant vice-chancellor, M. Hoffman, esq., allowing an injunction to issue thereon, and on motion of A. S. Garr, esq., solicitor for said complainant, it is ordered that an injunction issue out and under the seal of this court, agreeably to the prayer of the said bill.

At a court of chancery held for the State of New York, at the City Hall of the city and county of New York, on the twenty-eighth day of June, one thousand eight hundred and forty-two.

Present, William T. McConn, vice chancellor.

JUAN DE LA CAMARA
vs.
FERDINAND CLARK.

*Order for appointment of receiver.*

A motion having been this day made in the above cause, pursuant to previous notice, for the appointment of a receiver therein, on reading and filing an affidavit proving the due service upon the defendant of the said notice, of a copy of the bill of complaint filed in the said cause, of the writs of injunction and subpœna issued therein, of notice to appear and answer, and of a copy of the one hundred and ninety-first rule of this court, and on motion of Andrew S. Garr, solicitor of counsel for the complainant herein, it is ordered that it be referred to David Codwise, esq., one of the masters of this court, residing in the city of New Year, to appoint a receiver of the money, property, things in action, and effects of the above named defendant, Ferdinand Clark, with the usual powers and authority of receivers in like cases; and

that said master take from said receiver and file with the clerk of this court the requisite security.

And it is further ordered that the above named defendant assign, transfer, and deliver to such receiver, on oath, under the direction of said master, all the property, money, equitable interests, things in action, and effects of the above named defendant, Ferdinand Clark, or so much as may be necessary to pay the complainant's debt and costs, with all the books and papers relative thereto, and the evidences thereof.

And that the above named defendant appear before said master from time to time, and produce such books and papers, and submit to such examination as the said master shall direct in relation to the said property, equitable interests, things in action, and effects; and the complainant be at liberty to examine witnesses before the said master in relation to the same.

*Subpœna to appeal and answer.*

The people of the State of New York to Ferdenand Clark, greeting:

We command you that you personally appear before our vice chancellor of the first circuit in our court of chancery, on the twenty-eighth day of June instant, wheresoever the said court shall then be, to answer to a bill of complaint exhibited against you in our said court by Juan de la Camara, and to do further and receive what our said court shall have considered in that behalf; and this you are not to omit under the penalty of two hundred and fifty dollars.

Witness Reuben H. Walworth, chancellor of our said State, at the city of New York, the thirteenth day of June, in the year of our Lord one thousand eight hundred and forty-two.

HIRAM WALWORTH, *Clerk.*
A. S. GARR, *Solicitor.*

The people of the State of New York to Ferdenand Clark, and to his [L. S.] counsellers, attorneys, solicitors, and agents, greeting:

Whereas, it has been represented to us, in our court of chancery, on the part of Juan de la Camara, complainant, that he has lately exhibited his bill of complaint in our said court of chancery, before our vice chancellor of the first circuit, against you, the said Ferdenand Clark, to be relieved touching the matters therein complained of, in which bill it is stated, amongst other things, that you are combining and confederating with others to injure the said complainant touching the matters set forth in the said bill, and that your actings and doings in the premises are contrary to equity and good conscience.

*Injunction.*

We, therefore, in consideration thereof, and of the particulars

matters in the said bill set forth, do strictly command you, the said Ferdinand Clark, and the persons before mentioned, and each and every of you, under the penalty of ten thousand dollars, to be levied on your lands, goods, and chattels to our use; that you do absolutely assist and refrain from collecting, receiving, selling, transferring, assigning, delivering, or in any way or manner using, controlling, or interfering with or disposing of any debts or demands due to you, the said Ferdinand Clark, or any goods, wares, merchandises, account books, bills, drafts, checks, money stocks, promissory notes, bonds, mortgages, judgments, or other securities, things in action, property, or effects, belonging to you, the said Ferdinand Clark, whether in your own name or hands, or in the name or hands, or held by any other person or persons for you, or for your use or benefit, or in trust for you, express or implied, except where such trust has been created by, or the fund so held in trust has proceeded from, some person other than you, the said Ferdenand Clark, until the further order of our said court of chancery; and also that you, the said Ferdinand Clark, do desist and refrain from confessing any judgment for the purpose of giving any other creditor a preference over the said complainant, and from doing any other act to enable other creditors to obtain your property, which the said complainant is unable to reach by execution.

Witness, Reuben H. Walworth, esquire, chancellor of our said State, at the city of New York, the thirteenth day of June, one thousand eight hundred and forty-two.

HIRAM WALWORTH.
A. S. GARR, *Solicitor.*

*In chancery.*

Before the Vice Chancellor of the first circuit.

*Notice of motion for receiver.*

JUAN DE LA CAMARA
vs.
FERDINAND CLARK.

SIR: Please to take notice, that upon the bill of complaint filed in this cause, with a copy of which you are herewith served, and upon affidavit proving the due service of the writs of injunction and of subpœna issued in this cause upon you, Ferdenand Clark, the defendant herein, a motion will be made in this honorable court, before the vice chancellor of the first circuit, on the fourth Tuesday of June instant, at the opening of the court on that day, or as soon thereafter as counsel can be heard, that it be referred to one of the masters of this court to appoint a receiver of the money, property, things in action, and effects of the above-named defendant, Ferdinand Clark,

with the usual powers and authority of receivers in like cases. That the above-named defendant be directed to assign, transfer, and deliver to said receiver, on oath, under the direction of said master, all the property, money, equitable interests, things in action, and effects of the above-named defendant, Ferdinand Clark, except such as are by law exempt from execution, with all the books and papers relating thereto, and the evidences thereof. That the above-named defendant appear before said master from time to time, and produce such books and papers, and submit to such examination as the said master shall direct in relation to said property, equitable interests, things in action and effects, and that the complainant be at liberty to examine witnesses before said master in relation to the same, or for such further or other order in the premises as to the said court shall seem just, &c.

Dated June 13, 1842.

Yours, &c.,

A. S. GARR,
*Solicitor for complainant.*

To Mr. FERDINAND CLARK,
the above-named defendant.

*In Chancery.*

Before the Vice Chancellor of the first circuit.

JUAN DE LA CAMARA
vs.
FERDINAND CLAKK.

*Affidavit of service.*

CITY AND COUNTY OF NEW YORK, *ss:*

Constant Fremineau, being duly sworn, saith, that on the twenty-third day of June instant, he delivered to the above-named Ferdinand Clark, personally, a notice, of which the above is a copy; a copy of the bill of complaint in this cause, a copy whereof is hereto annexed; a notice to appear and answer, of which the annexed is a copy; a copy of the one hundred and ninety-first rule of this court; a copy of the injunction issued in this cause, which is hereunto annexed; and a copy of the subpœna issued in this cause, which is hereunto annexed. That this deponent, at the same time, showed to the said Ferdenand Clark the said annexed injunction and subpœna, having the seal of this court impressed thereon respectively, and that the said copy of the subpœna so by him delivered to the said Ferdinand Clark was subscribed A. S. Garr, solicitor of the complainant, and inscribed "copy," and further, that the said Ferdinand Clark lives in the city of New York.

C. FREMINEAU.

Sworn this 25th day of June, 1842, before me,
THEODORE HINSDALE,
*Comm'r of Deeds.*

*In chancery.*

Before the vice chancellor.

JUAN DE LA CAMARA
vs.
FERDINAND CLARK.

*Notice to appear and answer.*

Please to take notice that the entry of the defendant's appearance and an answer on oath is required in this cause, and you are herewith served with a copy of the one hundred and ninety-first rule of this court, in pursuance of the requirements thereof.

Dated the 13th day of June, 1842.

Y'rs, &c.,
A. S. GARR,
*Sol'r for Compl't.*

To the defendant.

*Copy of the one hundred and ninety-first rule of the court of chancery of the State of New York.*

The debtor against whom a creditor's bill is filed shall not be subjected to the expense of putting in an answer thereto in the usual manner, if he shall cause his appearance to be entered within twenty days after the return day of the subpœna, and shall within twenty days after service of a copy of the bill, and notice of the order to answer, deliver to the complainant or his solicitor a written consent that an order may be entered taking the bill as confessed, and for the appointment of a receiver, and for a reference to take the examination of the defendant in conformity to this rule. 191*st rule.*

Upon presenting such written consent to the court, the complainant may have a special order founded thereon, directing the bill to be taken as confessed against the debtor, and referring it to such master as the court may designate in such order, to appoint a receiver with the usual powers, and to take from him the requisite security. The order shall also direct the defendant to assign, transfer, and deliver over to the receiver on oath, under the direction of the master, all his property, equitable interests, things in action, and effects; and that he appear before the master from time to time, and produce such books and papers, and submit to such examination as the master shall direct, in relation to any matter which he might have been legally required to disclose, if he had answered the bill in the usual manner.

The expense of taking down such examination by the master shall

be paid by the complainant in the first instance, and may be taxed and allowed to the latter as a part of his necessary costs in the suit. The complainant shall also be at liberty to examine witnesses before the master, as to the property of the defendant, or as to any other matter charged in the bill and not admitted by the defendant on such examination. And the complainant shall cause a written or printed copy of this rule to be served on the defendant, at the time of the service of the subpœna, with a notice to the defendant that an entry of his appearance and an answer on oath is required, or such defendant shall not be answerable to the complainant for the costs of the proceedings to compel an appearance and answer.

*In chancery.*

Before the vice chancellor.

JUAN DE LA CAMARA
vs.
FERDINAND CLARK.

To the chancellor of the State of New York.

In pursuance of an order of this court, made in the above entitled cause, by the vice chancellor of the first circuit, and bearing date the twenty-eighth day of June, in the year of our Lord one thousand eight hundred and forty-two, whereby, amongst other things, it was referred to the undersigned, one of the masters of this court, residing in the city of New York, to appoint a receiver in this cause of the money, property, things in action, and effects of the above named defendant, with the usual powers and authority of receivers in like cases; and that said master take from said receiver the necessary and usual security, and file the same in the proper office.

I, David Codwise, the master named in said order, do report, that I have been attended on the said reference by the solicitor and counsel of the complainant and of the defendant; that I thereupon proceeded on the matters so referred: that William A. Booth, of the ———, was proposed, on the part of the complainant, to be the receiver in this cause; and no objection being made to his appointment, and deeming a fit and proper person for such trust, I have appointed him to be such receiver; that the said William A. Booth thereupon executed a bond, in the usual form, to the people of the State of New York, in the penal sum of nine thousand dollars, conditioned for the faithful discharge of his duties as such receiver: that Julian Castelain and Elias Ponvert, of the city of New York, were proposed as the sureties of the said receiver, and being satisfied by their affidavits of justification that they were each worth the requisite security, I approved of the said sureties as sufficient; and the said sureties thereupon executed the said bond jointly with the said receiver.

And I do further report, that I have caused the said bond, with my approval endorsed thereon, and the said affidavits of justification, to be filed in the office of the clerk of this court. All which is respectfully submitted.

DAVID CODWISE,
*Master in ch'y.*

Dated New York, August 3, 1842.
Filed March 27, 1843.

SUPREME COURT, LATE IN CHANCERY.

Before the Vice Chancellor of the first circuit.

JUAN DE LA CAMERA
vs.
FERDINAND CLARK.

CITY AND COUNTY OF NEW YORK, *ss*:

Andrew S. Garr, solicitor for the complainant, being duly affirmed, saith: That after he had received notice of the defendant's appearance in this suit, by Charles W. Sandford, esq., his solicitor, he, this affirmant, entered an order that the defendant put in his answer in forty days after service of a copy of the bill and notice of the order: that it appears, by an entry in this affirmant's register, which he believes to be correct, that on the eleventh day of December, one thousand eight hundred and forty-three, a copy of the bill of complaint in this cause, and notice of the said order, were duly served upon the said Charles W. Sandford, esq., the solicitor of the defendant, by Julian Garr, this affirmant's son and their clerk.

That the defendant has never put in an answer to the said bill, and that this affirmant is unable to procure an affidavit of the said service upon the said Charles W. Sandford, esq., by reason of the absence of the said Julian Garr, who is now in California.

ANDREW S. GARR.

Affirmed this 7th day of June, 1851, before me.
BENJ'N F. BILLINGS,
*Com'r of deeds, New York.*

I admit that the service mentioned in the foregoing affidavit was made upon me at the time therein specified.

C. W. SANDFORD.

Dated June 16th, 1851.

SUPREME COURT.

*In equity, late in chancery.*

Before the Vice Chancellor.

JUAN DE LA CAMARA
vs.
FERDINAND CLARK.

On reading and filing affidavit of service of a copy of the bill of complaint and notice of order to answer, and of defendant's default in not answering, and on motion of A. S. Garr, solicitor for complainant, ordered that the bill of complaint be taken as confessed.

SUPREME COURT.

*In equity, late in chancery.*

Before the Vice Chancellor of the first circuit.

JUAN DE LA CAMARA
vs.
FERDINAND CLARK.

Sir: Please to take notice that this cause will be brought to a hearing, on the bill taken as confessed, at a special term of this court, to be held at the City Hall of the city of New York, on Saturday, the twenty-first day of June instant, at the opening of the court on that day, or as soon thereafter as counsel can be heard.

Dated this 17th day of June, 1851.

Yours, &c.,

A. S. GARR.
*Solicitor for compl't.*

To CHARLES SANDFORD, Esq.,
*Solicitor for defendant.*

SUPREME COURT,

*In equity, late in chancery.*

Before the Vice Chancellor of the first circuit

JUAN DE LA CAMARA
vs.
FERDIN'D CLARK.

WILL'M C. PICKERSGILL
vs.
THE SAME.

*Return of receiver.*

A just and true inventory of the whole money, property, things in action, and effects, of Ferdenand Clark, whereof William A. Booth

was appointed receiver, by order of the late court of chancery, made in these causes respectively, on the third day of August, 1842, so far the same have come to the knowledge of the said receiver:

Money, none. Property, things in action, and effects, none—other than a claim which, at the time of the said receiver's appointment, the said Ferdinand Clark against the republic of Mexico, and which claim has been allowed, and an award thereon, in favor of the said Ferdinand Clark, for the sum of eighty-six thousand seven hundred and eighty-six dollars and twenty-nine cents, or thereabouts, made on or about the fifteenth day of April, 1851, by the board of commissioners appointed under the act of Congress of March 3, 1849, entitled "An act to carry into effect certain stipulations of the treaty between the United States of America and the republic of Mexico, of the second day of February, 1848." The said sum of money is now in the hands of the Secretary of the Treasury of the United States, ready to be paid to whomsoever may be legally entitled to receive the same.

Dated New York, June 30, 1851.

WM. A. BOOTH,
*Receiver.*

CITY AND COUNTY OF NEW YORK, *ss:*

William A. Booth, the receiver of the money, property, things in action, and effects of the above named defendant, being duly sworn, doth depose and say, that the above is a just and true inventory of the whole money, property, things in action, and effects of the above named Ferdinand Clark, so far as the same have come to this deponent's knowledge, and that no part thereof has at any time been received by him, or has been in his possession, or under his control.

The deponent further saith, that he has been advised by counsel, and verily believes, that, in his said capacity of receiver, he has in equity a vested and preferable right to the sum of money mentioned in the above inventory; and he has, therefore, instituted a suit in equity in the circuit court of the District of Columbia, for the recovery of the same: that, subsequently to his appointment as receiver, the said Ferdinand Clark, as deponent has been informed and believes, petitioned the district court of the United States for the district of New Hampshire, for the benefit of the act of Congress, approved August 19, 1841, entitled "An act to establish uniform system of bankruptcy throughout the United States," and was decreed a bankrupt, and obtained a discharge under said act: that the said Ferdinand Clark, and likewise his assignee in bankruptcy, as well as divers other persons claiming as creditors of said Clark, have also instituted proceedings in the said court to recover the said sum of money, or portions thereof, and that considerable expenses and disbursements have been and will be incurred in prosecuting this deponent's

said suit, and in resisting the several claims of the said Ferdinand Clark, and of his assignee in bankruptcy, and others.

WM. A. BOOTH.

Sworn this 30th day of June, 1851, before me,

D. F. CURRY,
*Com'r of deeds.*

SUPREME COURT.

*In equity.*

On bill taken as confessed, No. 118 on calendar.

JUAN DE LA CAMARA
vs.
FERDINAND CLARK.

This cause having been called and passed at the present special term, I consent that it be restored.

CHAS. W. SANDFORD,
*Def't's Solicitor.*

At a special term of the supreme court, in equity, held for the State of New York, at the City Hall of the city of New York, on the first day of July, 1851.

Present, John W. Edmonds, one of the justices of said court.

*Late in chancery.*

Before the Vice Chancellor of the first circuit.

JUAN DE LA CAMARA
vs.
FERDINAND CLARK.

This cause having this day been brought on to be heard on the bill taken as confessed, for want of an answer, and on reading and filing proof of the due service of notice of hearing on the solicitor of the defendant, and on reading the inventory and affidavit filed by William A. Booth, the receiver heretofore appointed in this cause, and on hearing Mr. A. S. Garr, of counsel for the complainant, no opposition being made on the part of the defendant, it is ordered, adjudged, and decreed, and this court, in virtue of the power therein vested, doth order, adjudge, and decree, that the said receiver be, and he is hereby, authorized and required to take all lawful ways and means, by suit, in the circuit court for the district of Columbia, or otherwise, to recover and obtain possession of the money, property, things in action, and effects of the defendant, and particularly of the sum of eighty-

six thousand and seven hundred and eighty-six dollars and twenty-nine cents, mentioned in the said inventory to have been awarded in favor of the defendant, on or about the fifteenth day of April last past, by the board of commissioners appointed under the act of Congress, of March 3, 1849, entitled "An act to carry into effect certain stipulations of the treaty between the United States of America and the republic of Mexico, of the 2d day of February, 1848."

And it is hereby further ordered and decreed, that it be referred to Stephen Cambreling, esq., of the city of New York, to tax the costs of the respective parties in this suit, and to adjust and certify such reasonable counsel fees as may be found proper and allowable.

And that the said William A. Booth pay to the complainant, or his solicitor, out of the first net moneys which shall come to his hands as such receiver, (provided no other judgment creditors have filed bills before the thirteenth day of June, in the year 1842, when the complainant's bill of complaint was filed; but if they should, then according to the date and priority of the filing of the bills,) the sum of four thousand six hundred and sixty-eight dollars and forty-nine cents, the amount of the judgment mentioned in the complainant's bill in this cause, with interest thereon at the rate of seven per cent. per annum, from the fifth day of March, 1842, the day of the entry of said judgment; and that the said receiver do also pay to the solicitors of the respective parties their taxed costs and reasonable counsel fees in this suit, upon being shown a certificate of taxation and adjustment, and having a receipt at the foot of such certificate, or at the foot of a bill of the taxed costs, signed by the solicitor, delivered to and left with such receiver.

And in case the receiver shall not be able to collect sufficient to pay off the said complainant in manner aforesaid, that then he shall pay to the complainant or to his solicitor such moneys as shall come into his hands as such receiver, after deducting his commissions and necessary disbursements, and paying all claims (if any there shall be) which are entitled to priority over the complainant.

And in such case the complainant is at liberty to apply to the court for such further directions as may be necessary to enable him to collect such parts as may remain unpaid, out of any future assets of the defendant, Ferdinand Clark; and the receiver is to be, and is hereby, continued, notwithstanding this decree.

At the special term of the supreme court in equity, held for the State of New York, at the City Hall of the city of New York, on the fifteenth day of October, one thousand eight hundred and fifty-one.

Present, Hon. John W. Edmonds, justice.

JUAN DE LA CAMERA
vs.
FERDINAND CLARK.

The complainant filed his bill of complaint in the above entitled

cause in the late court of chancery, before the vice chancellor of the first circuit, on the 13th day of June, in the year 1842, and a subpœna was thereupon issued, directed to the defendant named in said bill, requiring him to appear and answer the same. And whereas, on the 28th day of June, 1842, upon application to the court, founded on affidavit, &c., made pursuant to notice, an order was made herein, referring it to David Codwise, esq., one of the masters of said court, to appoint a receiver, &c.; the said master made his report in the premises.

The defendant appeared, and the bill was taken as confessed against him for want of answer. This cause was brought to a hearing, on bill taken as confessed before the supreme court at a special term thereof; and thereupon a decree was made therein, which is in the words and figures following, to wit:

At a special term of the supreme court in equity, held for the State of New York, at the City Hall of the city of New York, on the first day of July, 1851.

Present, John W. Edmonds, one of the justices of said court.

JUAN DE LA CAMARA
vs.
FERDINAND CLARK.

Late in chancery, before the vice chancellor of the first circuit.

*Decree.*

This cause having this day been brought on to be heard on the bill taken as confessed for want of an answer; and on reading and filing proof of the due service of notice of hearing on the solicitor of the defendant; and on reading the inventory and affidavit filed by William A. Booth, the receiver heretofore appointed in this cause; and on hearing Mr. A. S. Garr, of counsel for the complainant, no opposition being made on the part of the defendant,—it is ordered, adjudged, and decreed, and this court, in virtue of the power therein vested, doth order, adjudge, and decree, that the said receiver be, and he is hereby, authorized and required to take all lawful ways and means, by suit in the circuit court for the District of Columbia, or otherwise, to recover and obtain possession of the money, property, things in action, and effects of the defendants, and particularly the sum of eighty-six thousand seven hundred and eighty-six dollars and twenty-nine cents, mentioned in the said inventory to have been awarded in favor of the defendant on or about the fifteenth day of April last past, by the board of commissioners appointed under the act of Congress of March 3, 1849, entitled "An act to carry into effect certain stipulations of the treaty between the United States of America and the republic of Mexico, of the 2d day of February, 1848.

And it is hereby further ordered and decreed that it be referred to Stephen Cambreling, esquire, of the city of New York, to tax the costs of the respective parties in this suit, and to adjust and certify such reasonable counsel fees as may be found proper and allowable; and that the said William A. Booth pay to the complainant or his solicitor, (out of the first net moneys which shall come to his hands as such receiver, provided no other judgment creditors have filed bills before the thirteenth day of June, in the year 1842, when the complainant's bill of complaint was filed, but if they should, then according to the date and priority of the filing of the bills,) the sum of four thousand six hundred and sixty-eight dollars and forty-nine cents, the amount of the judgment mentioned in the complainant's bill in this cause, with interest thereon at the rate of seven per cent. per annum, from the fifth day of March, 1842, the day of the entry of said judgment. And that the said receiver do also pay to the solicitor of the respective parties their taxed costs and reasonable counsel fees in this suit, upon being shown a certificate of taxation and adjustment, and having a receipt at the foot of such certificate, or at the foot of a bill of the taxed costs, signed by the solicitors, delivered to and left with such receiver.

And in the case the receiver shall not be able to collect sufficient to pay off the said complainant in manner aforesaid, that then he shall pay to the complainant or to his solicitor such moneys as shall come into his hands as such receiver, after deducting his commissions and necessary disbursements, and paying all claims (if any there should be) which are entitled to priority over the complainant.

And in such case the complainant is at liberty to apply to the court for such further directions as may be necessary to enable him to collect such parts as may remain unpaid, out of any future assets of the defendant, Ferdinand Clark.

And the receiver is to be and is hereby continued, notwithstanding this decree.

Thereupon the plaintiff's costs were taxed at the sum of one hundred and ninety-one dollars and two cents.

Whereupon the bill of complaint filed in this cause, and such other pleadings and papers filed therein as are required by the general rules and practice of this court, together with the original taxed bill of costs, are hereto annexed, and the said decree is enrolled in the manner prescribed by the statute in such case made and provided, at the time in the caption of the enrolment set forth.

JOHN W. EDMONDS.

GEORGE W. RIBLET.

(Endorsed: Supreme court in equity, late in chancery, before the vice chancellor.)

Juan de la Camara vs. Ferdenand Clark.

Filed Oct. 15th, 1851.

All which we have caused, by these presents, to be exemplified, and the seal of the supreme court to be hereunto affixed. Witness, ——— ———, justice, at the city of New York, this 17th day of October, 1851, and the seventy-fifth year of our independenee.

GEO. W. RIBLET, *Clerk.*

STATE OF NEW YORK,
*City and County of New York, ss:*

I, John W. Edmonds, presiding justice of the first judicial district of the supreme court of the State of New York, do hereby certify, that George W. Riblett, whose name is subscribed to the preceding exemplication, is clerk of the city and county of New York, and clerk of the supreme court of said State for said county, and, as such, has the custody of the records and files of the said court, and of the late court of chancery of said State, in said county:

That the seal thereto affixed is the seal of said supreme court for said county, and that the attestation of the above enrolment is in due form of law.

In witness whereof, I have hereunto subscribed my name, this 17th day of October, A. D. 1851.

J. W. EDMONDS.

Whereupon the said complainant, by his solicitor aforesaid, filed in court here the following replication, to wit:

*General replication.*

The complainant, saving and reserving to himself all and all manner of exception, &c., for replication to the answer of said defendant, says:

That he will aver, and maintain, and prove this said bill to be true and sufficient in the law, to be answered unto by said defendant, and that the answer is very uncertain, evasive, and insufficient in the law to be replied to by the repliant, without this, &c.

JOS. H. BRADLEY,
*Solicitor for Compl't.*

*Continued.*

Whereupon the said parties, by their said solicitors, and by the order of this court, continued all further proceedings in this cause, regularly at rules, until the first Monday of March, in the year 1852.

*Set for hearing.*

And now, to wit, on the said last named day, the said parties, by their said respective solicitors, come into court here, and with the con-

sent of the said court set the said cause for hearing on the bill, answer, exhibits, and general replication, at this present term.

JOS. H. BRADLEY, *for compl't.*
JNO L. HAYES, *for def't.*

*Continued.*

Whereupon, further proceedings of and upon the premises, with the consent of the said parties, by their said solicitors, and by order of the court, are regularly continued at rules until the first Monday in October next.

And now, to wit, on the said first Monday of October, in the year eighteen hundred and fifty-two, came into court here, as well the complainant as the defendant, by their solicitors aforesaid, at which time the said solicitors filed in court here the following agreement, to wit:

IN THE CIRCUIT COURT
*Of the District of Columbia.*

BOOTH
vs.
CLARK.

*In equity.*

October term, 1852.

*Agreement of counsel.*

In this case it is agreed that it shall be taken up and heard as for final hearing on the bill, answer, general replication, and proofs taken, and the exhibits filed, and that the parties may have leave to refer to the proof taken in the case of Hackett, assignee, vs. Clark, in this court, in the same manner and to have the same effect as if the same had been taken and filed in this cause; it being further understood and agreed, that in the event of an appeal, either party shall have and has leave to make the said proofs, or so much thereof as may be deemed necessary, part of the record of this cause; the object of the parties being to save expense and delay, by having said proofs taken over again.

JOS. H. BRADLEY, *for compl't.*
A. H. LAWRENCE, *for def'ts.*

*Continued.*

Thereupon, further proceedings of and upon the premises, with the consent of the said parties, by their solicitors aforesaid, and by order of the court, were regularly continued at rules until the fourth Monday of March, in the year eighteen hundred and fifty-three.

And now, to wit, on the said fourth Monday of March, in the year eighteen hundred and fifty-three, come into court here, as well the complainant as the defendant, by their solicitors aforesaid; whereupon, all and singular the premises being by the court here seen and understood, and after mature deliberation being thereupon had, the said court made the following following decree in the premises, to wit:

WILLIAM A. BOOTH
vs.
FERDINAND CLARK.

*Decree.*

This cause having been set for hearing, and coming on by consent, the bill, answers, and exhibits, proofs, and general replication, being by the court here considered, it is, this 29th day of March, 1853, ordered, adjudged, and decreed that the complainant's bill of complaint be, and the same is hereby, dismissed, with costs. By order of the Court.

JNO. A. SMITH, *Clerk.*

*Appeal.*

And thereupon the said complainant, by his solicitor aforesaid, prays in open court an appeal from the judgment and decree aforesaid, made by the court in the premises, to the Supreme Court of the United States, and to him it is granted; whereupon he files in court here his appeal bond, (copied at p. 94.)

Thereupon the solicitors aforesaid file in court here the following agreement, to wit:

CIRCUIT COURT
*Of the District of Folumbia.*

March term, 1853.

WILLIAM A. BOOTH
vs.
FERDINAND CLARK,

*Agreement of Counsel.*

It is agreed that so much and such parts of the testimony and papers filed in the case of B. C. Clark, &c., vs. Ferdinand Clark, now pending in this court, shall be used in and be a part of the case of William A. Booth vs. Ferdinand Clark, on appeal of the same to the Supreme Court of the United States, as either party may select or direct to be incorporated into the record of the case of Booth vs.

Clark, the same having been so used by agreement of parties on the trial of said cause in this court.

JOHN L. HAYES,
*Solicitor for Ferdinand Clark.*
JOS. W. BRADLEY,
*Solicitor Booth.*

*Appeal bond.*

Know all men by these presents, that we, William A. Booth and Julian Chastelain, are held and firmly bound unto Ferdinand Clarke, in the full and just sum of one thousand dollars, current money of the United States, to which payment, well and truly to be made and done, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this second day of April, eighteen hundred and fifty-three.

Whereas lately, at a circuit court of the District of Columbia, sitting as a court of equity, for Washington county, in a cause wherein the said William A. Booth was complainant, and the said Ferdinand Clarke was defendant, a decree was rendered against the said complainant, and he having entered an appeal to the Supreme Court of the United States;

Now, the condition of the above obligation is such, that if the said William A. Booth shall prosecute his appeal to effect, and answer all damages and costs; if he fails to make his plea good, then the above obligation to be null and void; otherwise to be and remain in full force and virtue in law.

WM. A. BOOTH, [L. S.]
J. CHASTELAIN, [L. S.]

Signed, sealed, and delivered in presence of—
CHAS. M. CATLIN.

Circuit court of the District of Columbia, sitting in equity, for Washington county.

WILLIAM A. BOOTH, complainant,
vs.
FERDINAND CLARK, defendant,

SOUTHERN DISTRICT OF NEW YORK, *ss*:

Julian Chastelain, of the city of New York, merchant, one of the within named obligors, maketh oath and saith, that he is a resident and householder in the said city, and is worth the sum of two thousand dollars over and above all debts and responsibilities he owes or has incurred.

J. CHASTELAIN.

Sworn this 4th day of April, 1853, before me,

GEO. W. MORTON,
*U. S. Com'r.*

SOUTHERN DISTRICT OF NEW YORK.

William A Booth, of the city of New York, merchant, one of the within obligors, maketh oath and saith, that he is a resident and householder in New York city, and is worth the sum of two thousand dollars over and above all debts and responsibilities he owes or has incurred.

WM. A. BOOTH,

Sworn third day of April, 1853, before me,

GEO. W. MORTON,
*U. S. Com'r.*

New York, April 6, 1853.

I approve of the foregoing bond.

S. NELSON.

I certify that I have good reason to believe, and do believe, that J. Chastelain and Wm. A. Booth are respectively each men of substance, and good security for the sum of two thousand dollars; and I know the signature of Mr. Justice Samuel Nelson, of the supreme court, which is appended to the affidavit of Wm. A. Booth and Julian Chastelain, approving said bond, is his genuine signature.

JOS. H. BRADLEY.

And now, at the same time, Joseph H. Bradley, solicitor for the complainant, and A. H. Lawrence, solicitor for the defendant in this cause, file here in court the following agreement, to wit:

BOOTH
vs.
CLARK.

On appeal from the circuit court of the District of Columbia to the Supreme Court of the United States.

*Agreement of solicitors.*

In this cause it is agreed, in order to save the expense of the record, and to expedite the preparation thereof, so that it may be early on the docket of the Supreme Court, that either party may, in the Supreme Court of the United States, read and refer to so much and such parts of the evidence set out in the record of the case of Hackett's assignee vs. Ferdin'd Clarke, in the said court, as he may desire to use, to have the same effect as if it were set out at length and incorporated into the record in this cause.

JOS. H. BRADLEY, *Solic'r for compl't.*
A. H. LAWRENCE, *for def't.*

1677. 45

DISTRICT OF COLUMRIA,
*Washington county, to wit:*

*Clerk's certificate.*

I, John A. Smith, clerk of the circuit court of the District of Columbia for the county of Washington, hereby certify that the aforegoing is a full and perfect transcript of the bill, answers, exhibits, and all other proceedings had by the said court in the chancery case of William A. Booth, complainant, and Ferdinand Clark, defendant, together with a copy of the appeal bond therein.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said court, this twenty-first day of November, in the year eighteen hundred and fifty-three.

[SEAL.]

JOHN A. SMITH, *Clerk.*